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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

TINO ALEXANDER PEREZ,

Defendant and Appellant.

C088301

(Super. Ct. No. 13F02646)

Defendant Tino Alexander Perez appeals from the trial court's order resentencing him and declining to strike his firearm enhancements after this court remanded the case for resentencing. Appointed counsel for defendant filed an opening brief setting forth the facts of the case and asking this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) After reviewing the entire record, we affirm the judgment.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

FACTUAL AND PROCEDURAL BACKGROUND

The facts underlying defendant's convictions are described in *People v. Perez* (2017) 18 Cal.App.5th 598 (*Perez I*), and we need not recount them here. The jury found defendant guilty of four counts of attempted murder (Pen. Code, §§ 664/187, subd. (a)),¹ and four counts of assault with a firearm (§ 245, subd. (a)(2)). The jury found true the allegations that defendant personally and intentionally discharged a firearm (§ 12022.53, subd. (c)) and personally and intentionally discharged a firearm causing great bodily injury in the commission of the attempted murders (§ 12022.53, subd. (d)), allegations that defendant personally inflicted great bodily injury in the commission of the assaults (§ 12022.7, subd. (a)), allegations that defendant acted to benefit a criminal street gang as to all the counts (§ 186.22, subd. (b)(1)), and allegations that defendant personally used a firearm as to all the counts (§§ 12022.5, subds. (a) & (d), 12022.53, subd. (b)). (*Perez I*, at p. 606.) The trial court sentenced defendant to four consecutive terms of 15 years to life on the attempted murder counts, each enhanced by 25 years to life pursuant to section 12022.53, subdivision (d), and stayed the terms on the assault charges pursuant to section 654.

On appeal, this court struck the gang enhancements under section 186.22, subdivision (b), because the evidence was insufficient to support them, struck the four life terms imposed on the attempted murder convictions (counts 1 to 4) because they were unauthorized under section 664, and remanded the matter for resentencing on counts 1 to 4. (*Perez I*, *supra*, 18 Cal.App.5th at pp. 613-618, 627.)

On remand, the trial court conducted a resentencing hearing to sentence defendant in conformity with section 664 and to determine whether to exercise its discretion to strike the firearm enhancements. Additionally, the court conducted a hearing pursuant to *People v. Franklin* (2016) 63 Cal.4th 261, allowing defendant to create a record for his

¹ Undesignated statutory references are to the Penal Code.

future youth offender parole hearing pursuant to section 3051. The court imposed the middle term of seven years on count 1 and three consecutive terms of two years four months (one-third the middle terms) on counts 2 through 4. The court acknowledged its discretion but declined to strike the enhancements under section 12022.53.

Defendant again appeals.

DISCUSSION

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts and procedural history of the case and requests this court to review the record and determine whether there are any arguable issues on appeal.

(*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of his right to file a supplemental brief within 30 days from the date the opening brief was filed. More than 30 days have elapsed, and we have received no such communication from defendant.

Having undertaken an examination of the entire record pursuant to *Wende*, we find no arguable error that would result in a disposition more favorable to defendant. Accordingly, we affirm the judgment.

DISPOSITION

The judgment is affirmed.

RAYE, P. J.

We concur:

MAURO, J.

HOCH, J.